

Attorney's Docket No.: 10449-027001  
Client's Ref. No.: P1S2000216US

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Number of pages including this page 3

Applicant : Koji Hayashi  
Serial No. : 09/718,164  
Filed : November 21, 2000

Art Unit : 2653  
Examiner : Tan X. Dinh

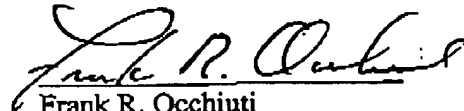
Title : DATA RECORDER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a Provisional Notice of Appeal,  
faxed this 5<sup>th</sup> day of May, 2005, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: May 5, 2005

  
Frank R. Occhiuti  
Reg. No. 35,306

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Boston, MA 02110-2804  
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**CERTIFICATE OF TRANSMISSION BY FACSIMILE**

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Date of Transmission

May 5, 2005

Signature

Matthew G. Doherty

Typed or Printed Name of Person Signing Certificate

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No. : 09/718,164  
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**MAIL STOP AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PROVISIONAL NOTICE OF APPEAL

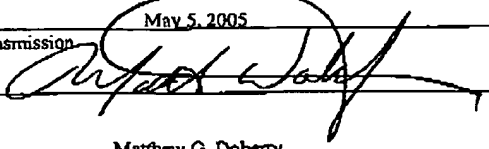
Applicant hereby provisionally appeals to the Board of Patent Appeals and Interferences from the action dated November 5, 2004, finally rejecting claims 1-13.

On March 17, 2005, Applicant filed a Petition for Suspension of Action to address all of the Examiner's rejections for a co-pending application. On April 25, 2005, applicant's representative spoke to Examiner Dinh to confirm if a decision had been issued. Examiner Dinh confirmed that he was working on the decision and that we would receive the decision by the end of the week. On May 5, 2005, applicant's representative again spoke to Examiner Dinh to confirm if a decision had been issued. Examiner Dinh was not certain which day the decision was mailed, but confirmed that he had produced one. Examiner Dinh then instructed us to contact Kimberly Spears, Supervisor of Examination of Group 2600 to inquire the exact date of the mailing of the decision. Applicant's representative was unable to reach Examiner Sears in person, but let a voice mail message.

Since the exact mailing date of the decision on petition is unknown, and to ensure that the applicant does not suffer any loss of rights in this application, applicant has filed this Provisional Notice of Appeal and authorizes applying the appeal fee to Deposit Account No. 06 1050 if the decision re petition has a mailing date after May 5, 2005 and is then deemed necessary.

## CERTIFICATE OF TRANSMISSION BY FACSIMILE

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Date of Transmission May 5, 2005  
Signature   
Typed or Printed Name of Person Signing Certificate Matthew G. Doherty

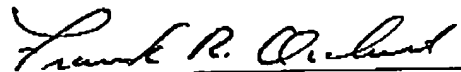
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Page : 2 of 2

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027001 / P1S2000216US

Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: May 5, 2005

  
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